

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

.....X
IN RE:

ZIMMER M/L TAPER HIP PROSTHESIS OR M/L TAPER
HIP PROSTHESIS WITH KINECTIV TECHNOLOGY AND
VERSYS FEMORAL HEAD PRODUCTS LIABILITY
LITIGATION

MDL No. 2859

18-MD-2859 (PAC)
18-MC-2859 (PAC)

This Document Relates to All Actions

ORDER NO. 35
MEMORIALIZING
FEBRUARY 20,
2020 STATUS
CONFERENCE

.....X
PAUL A. CROTTY, United States District Judge:

On February 19, 2020, the Court held a Status Conference to receive an update on the Parties' progress in MDL No. 2859.

I. STATUS OF CURRENT FEDERAL AND STATE COURT ACTIONS

To date, there are one-hundred and eighty-five (185) filed cases in this multidistrict litigation ("MDL"). There are thirteen (13) active cases pending in various state courts. The Parties reported on the status of related litigation.

Adams v. Zimmer, 5:17-cv-00621-EGS, has been set for trial in the Eastern District of Pennsylvania for June 15, 2020 and will take approximately two weeks.

Of the pending state court actions, the Parties reported that one case, *Sells v. Zimmer, Inc., et. al.*, pending in New Mexico state court, is set for a trial starting on December 8, 2020.

The Parties also reported that the New Mexico Court of Appeals in *McDonald v. Zimmer Inc.* recently affirmed a verdict for Plaintiffs, with further appeals resolved prior to Zimmer's deadline to appeal to the New Mexico Supreme Court.

II. MOTION PRACTICE

The Court heard argument on Defendants' motion pertaining to the Court's order regarding *ex parte* communication with Plaintiffs' treating physicians, Order No. 34, and Plaintiffs' request, pursuant to Fed. R. Civ. P. 32(a)(8), that the prior testimony related to the Products at issue be used as if taken in this litigation, reserving any and all trial objections the Parties may have to the use of the testimony. Plaintiffs' motion to compel adverse event and complaint data is fully briefed before the Court. The Court did not require argument on this motion.

The Court will issue its rulings on the above three matters by separate order.

III. SCHEDULING ORDER

The Parties highlighted for the Court the need to amend the scheduling order. The Parties will submit a joint proposed Third Amended Schedule for consideration. The Court will issue its ruling by separate order.

IV. NEXT STATUS CONFERENCE

The next status conference will be held on April 16, 2020 at 10:00 AM. The conference will occur in **Courtroom 14-C** of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007. Counsel should check in with the Courtroom Deputy at least fifteen minutes in advance. Counsel should arrive at the Courthouse with sufficient time to go through security. Seats in the Courtroom may not be reserved. No later than five (5) days prior to the Status Conference, counsel shall file

a joint letter, not to exceed five (5) single-spaced pages and to be filed in **both 18-MD-2859 and 18-MC-2859**, setting forth the parties' tentative agenda.

SO ORDERED.

Dated: March 4, 2020
New York, New York

Paul A Crotty
PAUL A. CROTTY
United States District Judge